

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Mr. Jonathan Edward Stone d.b.a.
Omnitronics
Pacetronics
P.O. Box 42
Clayton, TX 75637

File No.: EB-03-DL-253
Citation: C200432500001
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and First Class U.S. Mail

CITATION

Released: January 7, 2004

By the Enforcement Bureau, Dallas Office:

1. This is an Official Citation issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended ("Act"),¹ to Mr. Jonathan Edward Stone d.b.a. Omnitronics / Pacetronics for violation of Section 302(b) of the Act,² and Section 2.803(a)(1) of the Commission's Rules.³

2. An investigation by the FCC's Dallas Office revealed that on December 18, 2003, Mr. Jonathan Edward Stone d.b.a. Omnitronics / Pacetronics through the Internet site(s) www.pacetronics.com (with an address listed on the site as Omnitronics, P.O. Box 42, Clayton, TX 75637) offered for sale, the following thirty (30) non-certified Citizens Band transceivers:

<u>NAME</u>	<u>MODEL</u>	<u>PRICE</u>	<u>DESCRIPTION</u>
Connex	3300	\$179.99	Item #: 736
Connex	3300 High Power	\$199.99	Item #: 737
Connex	4400 High Power	\$219.99	Item #: 738
Connex	4800 DXL-E	\$289.99	Item #: 739
Galaxy	DX33HML	\$159.99	Item #: 744
Galaxy	DX44V	\$189.99	Item #: 745
Galaxy	48T	\$369.99	clearance
Galaxy	DX55V	\$164.99	Item #: 746
Galaxy	DX66V	\$234.99	Item #: 747
Galaxy	DX77HML	\$219.99	Item #: 749
Galaxy	DX88HL	\$314.99	Item #: 750
Galaxy	DX99V	\$339.99	Item #: 753

¹ 47 U.S.C. § 503(b)(5)

² 47 U.S.C. § 302a(b)

³ 47 C.F.R. § 2.803(a)(1)

<u>NAME</u>	<u>MODEL</u>	<u>PRICE</u>	<u>DESCRIPTION</u>
General	Lee	\$194.99	Item #: 788
General	A.P. Hill	\$169.99	Item #: 787
General	Grant	\$399.99	Item #: 786
General	Longstreet	\$229.99	Item #: 789
General	Sherman	\$139.99	Item #: 790
Ranger	2950DX	\$269.99	Item #: 780
Ranger	2970DX	\$399.99	Item #: 776
Ranger	2980WX	\$409.99	Item #: 777
Ranger	2985DX	\$439.99	Item #: 778
Ranger	2995DX	\$549.99	Item #: 779
Ranger	6300F-25	\$269.99	Item #: 781
Ranger	6300F-150	\$399.99	Item #: 782
Ranger	6900F-25	\$289.99	Item #: 783
Ranger	6900F-150	\$429.99	Item #: 784
Superstar	3900 American Spirit	\$169.99	clearance
Superstar	3900HP	\$169.99	Item #: 795
Superstar	121	\$129.99	Item #: 794
Superstar	122	\$69.99	clearance

According to the Commission's records, these devices have not received an FCC equipment authorization which is required for Citizens Band transmitters marketed in the United States.

3. Section 302(b) of the Act² provides "[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section." Section 2.803(a)(1) of the Rules³ provides that "... no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless: (1) In the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled" Mr. Jonathan Edward Stone's (d.b.a. Omnitronics / Pacetronics) offer for sale of these devices violates both sections.

4. Mr. Jonathan Edward Stone d.b.a. Omnitronics / Pacetronics marketed these devices as amateur transceivers. The Commission has evaluated radiofrequency devices similar to those listed in paragraph 2 and concluded that the devices at issue are not only amateur radios but can easily be altered for use as Citizens Band devices as well. A CB transmitter is a transmitter that operates or is intended to operate at a station authorized for the CB service, and it must be certificated by the FCC prior to marketing or importation.⁴ The Commission has further concluded that these devices fall within the definition of a CB transmitter and therefore cannot legally be imported or marketed in the United States. *See* Response from the Commission's General Counsel to U.S. Customs Service dated May 17, 1999, 14 FCC Rcd 7797 (1999).

5. Additionally, dual use CB and amateur radios of the kind at issue here may not be certificated under the Commission's rules. Section 95.655(a) of the rules⁵ states: "... ([CB] Transmitters with frequency capability for the Amateur Radio Services . . . will not be certificated.)" *See also* FCC 88-256, 1988 WL 488084 (August 17,

⁴ *See* 47 C.F.R. §§ 95.603(c) & 2.803

⁵ 47 C.F.R. § 95.655(a)

1988). This clarification was added to explicitly foreclose the possibility of certification of dual use CB and amateur radios, *see id.*, and thereby deter use by CB operators of frequencies allocated for amateur radio use.

6. Furthermore, the Commission has revised Section 2.1204(a)(5) of its rules⁶ to prohibit all marketing and/or offering for sale in the United States of such devices even when the purchaser(s) had provided assurances that the transceivers are being bought solely for export. ALL DOMESTIC MARKETING OF SUCH DEVICES VIOLATES THE COMMUNICATIONS ACT OF 1934, AS AMENDED, AND THE COMMISSION'S RULES.

7. In addition to the marketing of the non-certified transceivers addressed above, Mr. Jonathan Edward Stone d.b.a. Omnitronics / Pacetronics is warned that Section 302(b) of the Act², and Section 2.815(c) of the Commission's Rules⁷ requires FCC Type Acceptance (or Certification) of External Radio Frequency Power Amplifiers (or amplifier kits) capable of operation on any frequency or frequencies below 144 MHz. Furthermore, Section 2.815(b) of the Commission's Rules⁸ prohibits the marketing of External Radio Frequency Power Amplifiers (or amplifier kits) capable of operation on any frequency or frequencies between 24 and 35 MHz.

8. Subsequent violations of the Communications Act and/or of the Commission's Rules may subject the violator to substantial monetary forfeitures not to exceed \$11,000 for each such violation or each day of a continuing violation,⁹ seizure of equipment through *in rem* forfeiture action, and criminal sanctions including imprisonment.¹⁰

9. Mr. Jonathan Edward Stone d.b.a. Omnitronics / Pacetronics may request a personal interview at the closest FCC location to its place of business,¹¹ namely:

Federal Communications Commission
9330 LBJ Freeway, Suite 1170
Dallas, Texas 75243-3470

which can be contacted by telephone at XXX XXX-XXXX. He must schedule this interview to take place within 14 days of the date of this citation. Mr. Jonathan Edward Stone d.b.a. Omnitronics / Pacetronics may submit a written statement within 14 days of the date of this Citation to the same address. Any written statement should specify what actions have been taken to correct the violation(s) outlined above. When corresponding with the Commission, case number EB-03-DL-253 should be referenced.

⁶ 47 C.F.R. § 2.1204(a)(5) revised effective February 28, 2000

⁷ 47 C.F.R. § 2.815(c)

⁸ 47 C.F.R. § 2.815(b)

⁹ See 47 C.F.R. § 1.80(b)(3)

¹⁰ See 47 U.S.C. §§ 401, 501, 503, 510

¹¹ See 47 U.S.C. § 503(b)(5)

10. Any statement or information provided may be used by the Commission to determine if further enforcement action is required.¹² Any knowingly or willfully false statement made in reply to this notice is punishable by fine or imprisonment.¹³

FEDERAL COMMUNICATIONS COMMISSION

James D. Wells
District Director - Dallas Office

LRB

Cc: Mr. Jonathan Edward Stone d.b.a.
Omnitronics
Pacetrronics
4430 State Hwy 315
Carthage, TX 75633

¹² See Privacy Act of 1974, 5 U.S.C. §552a(e)(3)

¹³ See 18 U.S.C. §1001